

## § 142.301

### GENERAL PROVISIONS

#### § 142.301 What is a small system variance?

Section 1415(e) of the Act authorizes the issuance of variances from the requirement to comply with a maximum contaminant level or treatment technique to systems serving fewer than 10,000 persons. The purpose of this subpart is to provide the procedures and criteria for obtaining these variances. The regulations in this subpart shall take effect on September 14, 1998.

#### § 142.302 Who can issue a small system variance?

A small system variance under this subpart may only be issued by either:

(a) A State that is exercising primary enforcement responsibility under Subpart B for public water systems under the State's jurisdiction; or

(b) The Administrator, for a public water system in a State which does not have primary enforcement responsibility.

#### § 142.303 Which size public water systems can receive a small system variance?

(a) A State exercising primary enforcement responsibility for public water systems (or the Administrator for other systems) may grant a small system variance to public water systems serving 3,300 or fewer persons.

(b) With the approval of the Administrator pursuant to §142.312, a State exercising primary enforcement responsibility for public water systems may grant a small system variance to public water systems serving more than 3,300 persons but fewer than 10,000 persons.

(c) In determining the number of persons served by the public water system, the State or Administrator must include persons served by consecutive systems. A small system variance granted to a public water system would also apply to any consecutive system served by it.

## 40 CFR Ch. I (7-1-04 Edition)

#### § 142.304 For which of the regulatory requirements is a small system variance available?

(a) A small system variance is not available under this subpart for a national primary drinking water regulation for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant.

(b) A small system variance under this subpart is otherwise only available for compliance with a requirement specifying a maximum contaminant level or treatment technique for a contaminant with respect to which:

(1) a national primary drinking water regulation was promulgated on or after January 1, 1986; and

(2) the Administrator has published a small system variance technology pursuant to Section 1412(b)(15) of the Act.

NOTE TO PARAGRAPH (B)(1): Small system variances are not available for public water systems above the pre-1986 maximum contaminant level even if subsequently revised. If the Agency revises a pre-1986 maximum contaminant level and makes it more stringent, then a variance would be available for that contaminant, but only up to the pre-1986 maximum contaminant level.

#### § 142.305 When can a small system variance be granted by a State?

No small system variance can be granted by a State until the later of the following:

(a) 90 days after the State proposes to grant the small system variance;

(b) If a State is proposing to grant a small system variance to a public water system serving 3,300 or fewer persons and the Administrator objects to the small system variance, the date on which the State makes the recommended modifications or responds in writing to each objection; or

(c) If a State is proposing to grant a small system variance to a public water system serving a population more than 3,300 and fewer than 10,000 persons, the date the Administrator approves the small system variance. The Administrator must approve or disapprove the variance within 90 days after it is submitted to the Administrator for review.